

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

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| ROBERT AVALLONE, | : |
| Plaintiff, | : |
| | : |
| v. | : Docket No. 2:06-CV-253 |
| | : 2:07-CV-1 |
| ROBERT HOFMAN, LESA TROWT, | : (Consolidated) |
| DR. SUSAN WEHRY, JOHN DOE, | : |
| JANE DOE, VERMONT DEPARTMENT | : |
| OF CORRECTIONS, DR. JOHN | : |
| LEPPMAN, DR. ROUSSE, PRISON | : |
| HEALTH SERVICES, DR. BALLARD, | : |
| MHM CORRECTIONAL SERVICES, INC., | : |
| Defendants. | : |

ORDER

The Report and Recommendation of the United States Magistrate Judge was filed August 11, 2009. After careful review of the file and the Magistrate Judge's Report and Recommendation, no objections having been filed by any party, this Court ADOPTS the Magistrate Judge's recommendations in full for the reasons stated in the Report.

The defendants' motion for summary judgment (Paper 59) IS GRANTED, and that all claims against defendants Robert Hofmann, Susan Wehry, Dr. John Leppman, Dr. Rousee, and Prison Health Services with regard to the Plaintiff's medical care are DISMISSED. It is further ordered that defendant Lisa Trowt's motion to dismiss (Paper 65) is DENIED.

Pursuant to Fed. R. App. P. 22(b), a certificate of appealability is DENIED because the petitioner has failed to make a substantial showing of denial of a federal right. Furthermore, the petitioner's grounds for relief do not present issues which are debatable among jurists of reasons, which could have been resolved differently, or which deserve further proceedings. See e.g., Flieger v. Delo, 16 F.3rd 878, 882-83 (8th Cir.) cert. denied, 513 U.S. 946 (1994); Sawyer v. Collins, 986 F.2d 1493, 1497 (5th cir.), cert. denied, 508 U.S. 933 (1993).

Furthermore, it is certified that any appeal of this matter would not be taken in good faith, pursuant to 28 U.S.C. § 1915(a)(3).

Dated at Burlington, in the District of Vermont, this 3rd day of September, 2009.

/s/ William K. Sessions III
William K. Sessions III
Chief Judge